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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 GEORGE WEGERS, et al.,

14 Defendants.

CASE NO. CR05-0231C

ORDER

15 This matter comes before the Court on Defendant Robin Wade Hundahl's motion to either
16 exclude statements by his co-defendants or sever his trial. (Dkt. No. 500.) Co-defendant Frank Offley
17 joins in the motion. (Dkt. No. 515.) Having considered the papers submitted by the parties in light of the
18 circumstances in this case, and having found oral argument unnecessary, the Court DENIES the motion
19 as premature.

20 Defendant cites *Crawford v. Washington*, 541 U.S. 36, 68–69 (2004), for the proposition that
21 testimonial hearsay is inadmissible unless the declarant may be confronted and cross-examined at trial.
22 Accord *United States v. Allen*, 425 F.3d 1231, 1235 (9th Cir. 2005). Defendant also relies on *Bruton v.*
23 *United States*, 391 U.S. 123, 132 (1968), and Rule 14, for the proposition that courts will sever a
24 defendant's trial if the prosecution wishes to introduce a co-defendant's testimonial hearsay that would
25 unduly prejudice the defendant. See FED. R. CRIM. P. 14.

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1 Whatever the relevance of these abstract legal principles, they are of little use when none of the
2 statements that Defendant challenges are before the Court. The government asserts that it is still in the
3 process of producing any such statements to the defendants, and has not yet completed discussions with
4 the defendants regarding admissibility. (*See* Pl.'s Opp'n 1-2.) The Court finds that under these
5 circumstances, Defendant's motion is premature.

6 Accordingly, Defendant Hundahl's motion is DENIED without prejudice to refile appropriate
7 *Crawford* or *Bruton* challenges when a justiciable controversy exists.

8 SO ORDERED this 9th day of November, 2005.

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10 A handwritten signature in black ink, appearing to read 'John C. Capron', is written over a horizontal line.

11 UNITED STATES DISTRICT JUDGE
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